BEFORE THE ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

IN THE MATTER OF THE PETITION TO AMEND 20.11.3 NMAC, *TRANSPORTATION CONFORMITY,* AND INCORPORATE SAID AMENDMENTS INTO THE NEW MEXICO STATE IMPLEMENTATION PLAN FOR AIR QUALITY(SIP)

AQCB Petition No. 2010-2

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

CITY OF ALBUQUERQUE'S NOTICE OF INTENT TO PRESENT TECHNICAL TESTIMONY

Pursuant to 20.11.82 NMAC, *Rulemaking Procedures – Air Quality Control Board*, The City of Albuquerque Environmental Health Department, Air Quality Division ("the Division") hereby submits its Notice of Intent to present technical testimony in this proceeding.

1. **The person for whom the witness will testify.**

City of Albuquerque Environmental Health Department, Air Quality Division

2. **The name and qualifications of each technical witness.**

Neal T. Butt. Environmental Health Scientist, Control Strategies Section, Air Quality Division. M.S. Biology (Wildlife Biology), University of North Dakota; B.S. Biology (Zoology), University of New Mexico; A.A.S. Criminal Justice, Central New Mexico Community College; A.A.S. Environmental Protection Technology, CNM; WERC Waste Management Certificate, UNM Chemical & Nuclear Engineering Department. Employed by the City of Albuquerque's Environmental Health Department for 13 + years; the last nine of which have been in the Air Quality Division. Chief responsibility is the promulgation of air quality regulations for implementation within the County of Bernalillo.

3. **Summary and Estimated Duration of Testimony**

Mr. Butt's written testimony is attached as AQD Exhibit # 5. Mr. Butt will testify that this revision to the SIP should be approved.

Amendments to 20.11.3 NMAC, *Transportation Conformity* are proposed in part because on March 24, 2010, the EPA promulgated changes to the transportation conformity rule that primarily affects $PM_{2.5}$ and PM_{10} nonattainment and maintenance areas. This rule became effective on April 23, 2010 [FR Vol. 75, No. 56, 14260-14285]. In response, and as required by EPA, the City of Albuquerque Environmental Health Department is proposing amendments to update the conformity regulation. EPA's updated rule:

- Provides clear guidance on how to implement transportation conformity under the 2006 $PM_{2.5}$ national ambient air quality standards (NAAQS) to ensure that transportation planning and air quality planning are coordinated and that air quality is protected. Conformity will apply in 2006 $PM_{2.5}$ nonattainment areas for this NAAQS on December 14, 2010, based on the one-year grace period for newly designated areas in the Clean Air Act (CAA) and the transportation conformity rule;
- Includes the requirements for demonstrating conformity for the 2006 $PM_{2.5}$ NAAQS, including the regional emissions test(s) that would apply before and after SIP motor vehicle emissions budgets are established for the revised NAAQS;
- Updates the baseline year for the interim emissions test to calendar year 2008 in 2006 $PM_{2.5}$ nonattainment areas;
- Clarifies which budgets PM_{10} nonattainment and maintenance areas would use for transportation conformity determinations, now that the annual PM_{10} standard has been revoked; and
- Clarifies that federally funded or approved highway and transit projects in $PM_{2.5}$, PM_{10} and CO nonattainment and maintenance areas must not delay timely attainment or achievement of other interim milestones.

4. Text of Recommended Revisions to the New Mexico State Implementation Plan

The Division recommends adoption of the proposed amendments to 20.11.3 NMAC, *Transportation Conformity* as proposed in the Public Review Draft, shown as AQD Exhibit #1a, which is attached to the Petition to Amend, filed July 6, 2010, shown as AQD Exhibit # 1, and as amended the Staff Proposed Floor Amendments shown as AQD Exhibit #6. Mr. Butt's testimony is anticipated to take approximately 30 minutes.

5. List and Description of Exhibits

The Division has attached the following exhibits to this Notice of Intent:

Exhibit Number	Title of Exhibit
AQD Exhibit 1	Petition to Amend 20.11.3 NMAC, *Transportation Conformity*
AQD Exhibit 1a	Public Review Draft 20.11.3 NMAC, *Transportation Conformity* {attached to AQD Exhibit 1}
AQD Exhibits 2a/b/c	Notice of Proposed Rulemaking: Albuquerque Journal, 8/15/10 {2a}; NM Register {2b}; and the Air Quality Announce List Serve {2c}
AQD Exhibit 3	Stakeholder Outreach: "The Air Shed", April-May 2010 Issue, Volume 4, Number 10
AQD Exhibit 4	Stakeholder Outreach: Notice of Availability of Stakeholder Review Draft, sent to members of the Transportation Conformity Technical Committee (TCTC), along with the Air Quality Control Board Listserve (4/28/10)
AQD Exhibit 5	Direct Testimony
AQD Exhibit 6	Staff Proposed Floor Amendments
AQD Exhibit 7	Draft Agenda
AQD Exhibit 8	Comments Received

AQD Exhibit 9

AQD Exhibit 10

6. <u>Reservation of Rights</u>

This Notice of Intent to Present Technical Testimony is based on the Division's Petition. The Division reserves the right to call any person to testify and to present any exhibit in response to another notice of intent or public comment filed in this matter or to any testimony or exhibit offered at the public hearing. The Division also reserves the right to call any person as a rebuttal witness and to present any exhibit in support thereof.

Respectfully submitted,

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department
One Civic Plaza, NW, Suite 3023
Albuquerque, New Mexico 87103
(505) 768-2660

CERTIFICATION

I hereby certify that on September 28, 2010, an original and nine copies of this Notice of Intent to present technical testimony (NOI), with attached exhibits were delivered to the following person for filing.

Janice Wright
Air Quality Control Board Liaison / Hearing Clerk
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

And that on September 28, 2010, a copy of this NOI with attached exhibits was sent to the Attorney for the Board, Bill Grantham, at the following e-mail address:

Bill.grantham@state.nm.us

Neal Butt
Environmental Health Scientist
Air Quality Division
Environmental Health Department